UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,164	10/28/2003	Daniel L. Krissell	RSW9-2003-0137US1 (7161-1	7166

46320 7590 09/07/2005	EXAMINER	
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SUITE 2040	ART UNIT	PAPER NUMBER
FT LAUDERDALE, FL 33301	2863	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)
	10/695,164	KRISSELL, DANIEL L.
	Examiner	Art Unit	
	Cindy D. Khuu	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *07/25/05 response*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-4,7,11,12,15 and 19-20* is/are rejected.

7) ☒ Claim(s) *5,6,8-10,13,14 and 16-18* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *10/28/03* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 7, 11, 12, 15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Windows XP In a Nutshell (Karp et al.)[1].

Regarding claim 1, Windows XP discloses a system for adjusted monitoring in a relational environment comprising: a registry of related applications (**Figure 1a**); at least two performance monitors (**Figure 1a: Excel and Spoolsv**) communicatively linked to one another (**Figure 1a,b: CPU usage change**) and coupled to respective related applications listed in said registry (**Figure 1a**); and, a set of adjustable monitoring parameters for each of said at least two performance monitors (**Figure 2**).

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[1] The following figures are screen shots of operational use of Windows XP Professional.
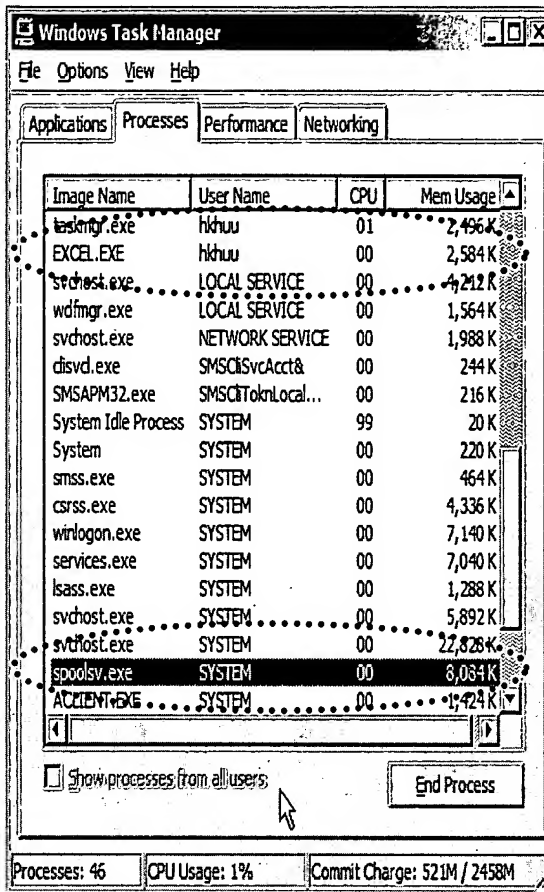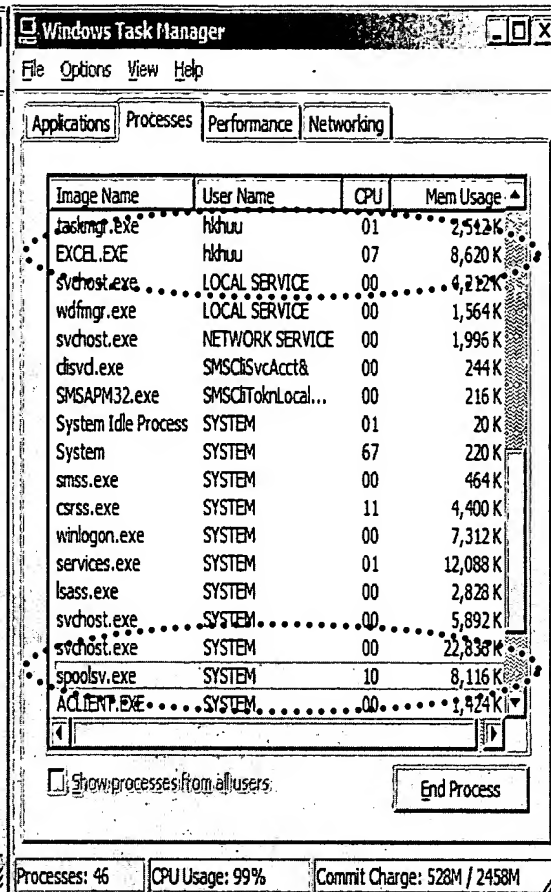
Figure 1a — Windows Task Manager

File Options View Help

Tabs: Applications | Processes | Performance | Networking

Image Name	User Name	CPU	Mem Usage
taskmgr.exe	hkhuu	01	2,496 K
EXCEL.EXE	hkhuu	00	2,584 K
svchost.exe	LOCAL SERVICE	00	4,212 K
wdfmgr.exe	LOCAL SERVICE	00	1,564 K
svchost.exe	NETWORK SERVICE	00	1,988 K
disvd.exe	SMSCliSvcAcct&	00	244 K
SMSAPM32.exe	SMSCliToknLocal...	00	216 K
System Idle Process	SYSTEM	99	20 K
System	SYSTEM	00	220 K
smss.exe	SYSTEM	00	464 K
csrss.exe	SYSTEM	00	4,336 K
winlogon.exe	SYSTEM	00	7,140 K
services.exe	SYSTEM	00	7,040 K
lsass.exe	SYSTEM	00	1,288 K
svchost.exe	SYSTEM	00	5,892 K
svchost.exe	SYSTEM	00	22,828 K
spoolsv.exe	SYSTEM	00	8,084 K
ACLIENT.EXE	SYSTEM	00	1,424 K

☐ Show processes from all users   [End Process]

Processes: 46 | CPU Usage: 1% | Commit Charge: 521M / 2458M

Figure 1a

Figure 1b — Windows Task Manager

File Options View Help

Tabs: Applications | Processes | Performance | Networking

Image Name	User Name	CPU	Mem Usage
taskmgr.exe	hkhuu	01	2,512 K
EXCEL.EXE	hkhuu	07	8,620 K
svchost.exe	LOCAL SERVICE	00	4,212 K
wdfmgr.exe	LOCAL SERVICE	00	1,564 K
svchost.exe	NETWORK SERVICE	00	1,996 K
disvd.exe	SMSCliSvcAcct&	00	244 K
SMSAPM32.exe	SMSCliToknLocal...	00	216 K
System Idle Process	SYSTEM	01	20 K
System	SYSTEM	67	220 K
smss.exe	SYSTEM	00	464 K
csrss.exe	SYSTEM	11	4,400 K
winlogon.exe	SYSTEM	00	7,312 K
services.exe	SYSTEM	01	12,088 K
lsass.exe	SYSTEM	00	2,828 K
svchost.exe	SYSTEM	00	5,892 K
svchost.exe	SYSTEM	00	22,838 K
spoolsv.exe	SYSTEM	10	8,116 K
ACLIENT.EXE	SYSTEM	00	1,424 K

☐ Show processes from all users   [End Process]

Processes: 46 | CPU Usage: 99% | Commit Charge: 528M / 2458M

Figure 1b

Figure 2 — Select Columns

Select the columns that will appear on the Process page
of the Task Manager.

☑ Image Name	☐ Page Faults Delta
☐ PID (Process Identifier)	☐ Virtual Memory Size
☑ CPU Usage	☐ Paged Pool
☐ CPU Time	☐ Non-paged Pool
☑ Memory Usage	☐ Base Priority
☐ Memory Usage Delta	☐ Handle Count
☐ Peak Memory Usage	☐ Thread Count
☐ Page Faults	☐ GDI Objects
☐ USER Objects	☐ I/O Writes
☐ I/O Reads	☐ I/O Write Bytes
☐ I/O Read Bytes	☐ I/O Other
☐ Session ID	☐ I/O Other Bytes
☑ User Name	

[OK]   [Cancel]

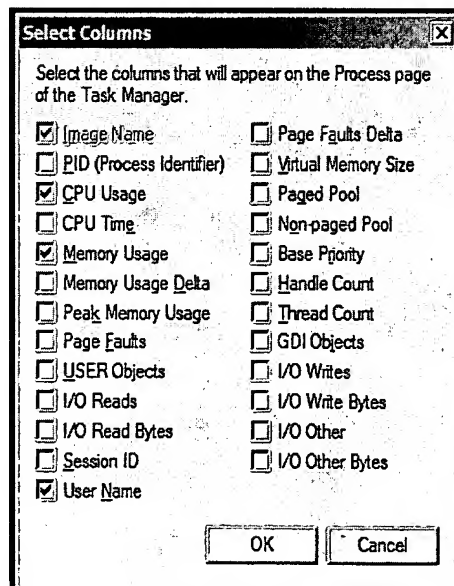**Figure 2**

Regarding claims 3 and 11, Windows XP discloses a method and machine readable storage for adjusted monitoring in a relational environment, the method comprising the steps of: measuring resource values in a coupled application (**Figure 3: Performance**): detecting an indication arising from said measurement (**Figure 3: CPU Usage**); locating an application related to said coupled application (**Figure 4**); and, transmitting a notification of said indication to a performance monitor coupled to said related application (**Figure 1a: CPU**).
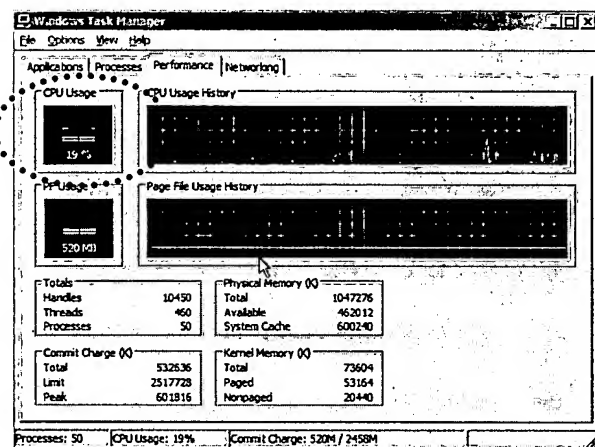
Figure 3
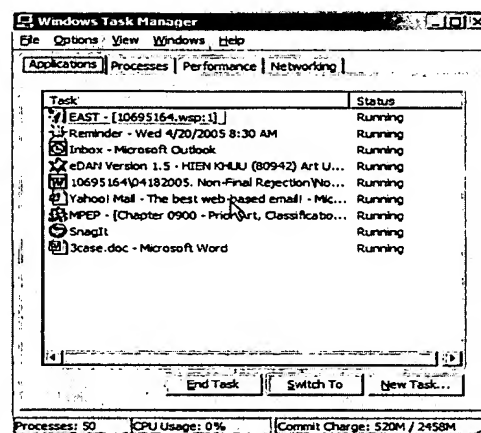
Figure 4

Regarding claims 4 and 12, Windows XP discloses a method and machine readable storage, comprising the steps of: receiving a notification of an indication from another performance monitor; and, processing said received notification in association with said coupled application (**Figure 1a,b: Excel and Spoolsv relationship**).

Regarding claims 7 and 15, Windows XP discloses a method and machine readable storage, wherein said locating step comprises the step of querying a registry of related applications (**Figure 1a: Image Name parameter represent a list of related applications in a registry**).

Regarding claim 19, Windows XP discloses a performance monitor comprising a communicative coupling to each of a monitored application (**Figure 1a: Windows Task Manager**), a registry of related applications (**Figure 1a: Image Name parameter represent a list of related applications in a registry**),

and at least one other performance monitor coupled to a related application (**Figure 1b: Spoolsv coupled to Excel**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Windows XP Version 2002 in view of Romero (US-20050022185).

Windows XP discloses all the claimed limitations as discussed above.

However, Windows XP does not explicitly disclose the following claimed features:

Regarding claim 2, a system comprising a policy engine coupled to at least one of said performance monitors and configured to process a policy for defining an adjustment of a corresponding set of said adjustable monitoring parameters based upon an indication received from a communicatively linked one of said at least two performance monitors.

Regarding claim 20, a performance monitor comprising: a set of adjustable performance monitoring parameters; and, a policy specifying limitations on adjusting said performance monitoring parameters responsive to detecting an indication arising from one of said monitored application and said related application.

Nevertheless, Romero discloses the following:

Regarding claim 2, a system comprising a policy engine (**100**) coupled to at least one of said performance monitors (**102**) and configured to process a policy (**108**) for defining an adjustment of a corresponding set of said adjustable monitoring parameters based upon an indication received from a communicatively linked one of said at least two performance monitors (**Page 2: Paragraph 26**).

Regarding claim 20, a performance monitor comprising (**102**): a set of adjustable performance monitoring parameters; and, a policy (**108**) specifying limitations on adjusting said performance monitoring parameters responsive to detecting an indication arising from one of said monitored application and said related application.
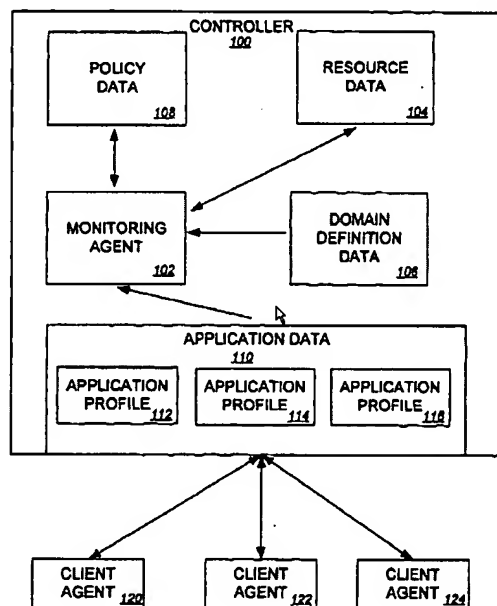
Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Windows XP with a policy and a policy engine as disclosed by Romero for the purpose of allowing the system user the ability and flexibility to configure the system to behave at an optimal level based on a current condition of the system.

Allowable Subject Matter

Claims 5-6, 8-10, 13-14, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Prior art fail to teach:

Regarding claims 5 and 13, a method and machine readable storage, wherein said detecting step comprises the steps of: comparing said measured resource values to a pre-defined threshold; and, where said measured resource values exceed said threshold, declaring an indication.

Regarding claims 6 and 14, a method and machine readable storage, wherein said detecting step comprises the steps of: comparing said measured resource values to a pre-defined threshold; and, where said measured resource values fail to meet said threshold, declaring an indication.

Regarding claims 8 and 16, a method and machine readable storage, comprising the steps of: detecting said related application through a configuration of said coupled application; and, recording said detected relationship in said registry.

Regarding claims 9 and 17, a method and machine readable storage, comprising the step of adjusting performance monitor parameters responsive to said detection.

Regarding claims 10 and 18, a method and machine readable storage, wherein said adjusting step comprises the steps of: loading an adjustment policy specifying limitations on adjusting performance monitor parameters in response to specific indications; and, limiting said adjustment of said performance monitor parameters based upon said policy.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Response to Arguments

Applicant's arguments filed July 25, 2005 have been fully considered but they are not persuasive.

During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969)

Regarding the 35 U.S.C. 102(b) rejections, Applicant argues that Karp does not teach at least two performance monitors communicatively linked to one another.

Examiner's position is that Karp does teach at least two performance monitors communicatively linked to one another (Figure 1a: the display of EXCEL.EXE is the first monitor and the display of spoolsv.exe is the second monitor. Figure 1b: the two applications are communicatively linked when EXCEL.exe requested a printing job, CPU usage indicated how they are linked together).

Applicant further argues that the Task Manager does not teach a set of adjustable monitoring parameters for each of said at least two performance monitors.

Examiner's position is that the Task Manager does teach of adjustable monitoring parameters for each of said at least two performance monitors (Figure 2 indicated the adjustable parameters for at least the application monitors displayed in Figure 1).

Applicant further argues that the Task Manager does not teach of locating an application related to said coupled application.

Examiner's position is that the Task Manager does teach of locating an application related to said coupled application (Figure 1 and Figure 4 indicated a registry of applications and where EXCEL.exe and spoolsv.exe are coupled to another through a printing spool).

Applicant further argues that the Task Manager does not teach of transmitting a notification of said indication to a performance monitor coupled to said related application.

Examiner's position is that the Task Manager does teach of transmitting a notification of said indication to a performance monitor coupled to said related application (Figure 1b CPU usage indicated EXCEL.exe transmitted a printing request and where spoolsv.exe CPU usage indicated the acknowledgement of the request).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Fax/Telephone Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy D. Khuu whose telephone number is (571) 272-8585. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CMC   8/29/05

John Barlow
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